



NOTIFICATION

Date: **21 December 2016**

Reference: GCF/notif/2016/1

Call for Public Input

Revised Terms of Reference

For the Independent Redress Mechanism of the Green Climate Fund

At its thirteenth and fifteenth meetings, the GCF Board requested the Head of the Independent Redress Mechanism (IRM) to prepare a revised terms of reference (TOR) for the IRM and to present it to the Board for consideration at its sixteenth meeting to be held in April 2017.

The Board has requested that the revised TOR be prepared through a consultative process.

This call for public submissions is part of that consultative process. The current TOR is in an annex to this document and submissions from the public are called for on any matter related to the TOR.

Any individual or organization may send a submission.

The deadline for public submissions is **20 January 2017** at 23:59 Korean Standard Time (KST).

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I. Background

1. The Independent Redress Mechanism (IRM) is mandated in paragraph 69 of the GCF's Governing Instrument. This para states that "(t)he Board will establish an independent redress mechanism that will report to the Board. The mechanism will receive complaints related to the operation of the Fund and will evaluate and make recommendations." The IRM performs a key function within the GCF's accountability mechanisms. The IRM reports directly to the Board. It is independent of the Secretariat of the GCF (management). The terms of reference also further specify that "(a)ll staff appointments and terminations of service in the IRM Unit will be the sole responsibility of the Head of IRM Unit and not of the Secretariat."
2. The Board, at its sixth meeting, adopted terms of reference of the IRM. This is the current TOR and is reproduced in Annex 1. The terms of reference state that "(t)he IRM is...a mechanism within the Fund to redress the grievances and complaints by communities and people affected by environmental and social impacts that result from an action or omission to follow the Fund's operational policies and procedures regarding environmental and social safeguards."
3. The IRM has a linkage to the Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC). The arrangements between the COP and the GCF approved in 2013 state that "The Fund will include in its annual reports to the COP the recommendations of its independent redress mechanism, and any action taken by the Board in response to those recommendations." The arrangements state that "Further modalities for the reconsideration of funding decisions as per Article 11, paragraph 3(b), will be developed appropriately once the independent redress mechanism is operational." Pursuant to these provisions, interim guidelines were adopted by the Board at its thirteenth meeting, to enable the National Designated Authority (NDA) of a country to apply for a reconsideration of a rejected funding proposal. Such applications have to be made through the IRM.
4. The Board has specified the governance and management structure of the IRM in the current TOR. The TOR states that the IRM will be headed by an expert with experience in running an accountability mechanism. The Head of the IRM assumed office on 1 November 2016.
5. Following further discussions on the TOR by the Board at its thirteenth meeting, the Board invited the Head of the IRMU, "following consultations with relevant stakeholders, to recommend any necessary updates to the terms of reference, of the Independent Redress Mechanism for the Board's consideration."
6. The TOR also specifically requires the development of "detailed guidelines and procedures governing the work of the IRM" for Board consideration and approval. After the revised TOR is prepared, following this call for public submissions, a separate consultative process will be launched in 2017 for the preparation of guidelines and procedures for the IRM.
7. The Board, by the same decision also requested the Head of the IRMU, "(i) to consider how the GCF should contribute to the third-party costs and expenses incurred by those who are entitled to seek redress from the GCF and make a recommendation to the Board in this regard, including in respect of the circumstances under which such costs may be claimed and the modalities pursuant to which such costs will be assessed; and (ii) to include, if possible, guidelines on the categories of information that the Head of the Independent Redress Mechanism may reasonably request from those who are entitled to seek redress from the GCF".

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II. Issues the public may wish to address

8. Public submissions may wish to address all or some of following matters related to the revision of the current TOR:

- a) Does the current TOR adequately cover all complaints that may be received by the IRM under clause 69 of the Governing Instrument of the GCF and how best might the revised TOR cover such complaints?
- b) Does the current TOR adequately define who should have standing to bring a complaint to the IRM, and if not how might it be improved?
- c) What should the relationship(s) be, between the IRM and similar redress mechanisms of accredited entities and implementing entities, what are the roles, functions and capacities of such redress mechanisms and how best might those be taken into account, in revising the current TOR?
- d) How best might the IRM and other redress mechanisms of accredited entities and implementing entities collaborate to address complaints resulting from GCF funded projects and how should this be reflected in the revised TOR?
- e) How best might mediation and conciliation efforts be deployed by the IRM in response to complaints and when and under what circumstances should compliance proceedings be initiated?
- f) What kinds of redress might the IRM recommend to the Board and how best might the revised TOR ensure that redress is delivered in a timely and efficient fashion to complainants and others identified by the IRM?
- g) How should the GCF contribute to the third-party costs and expenses incurred by those who are entitled to seek redress from the GCF and under what circumstances might such costs be claimed?
- h) What guidelines might be developed on the categories of information that the Head of the IRM might reasonably request from those who are entitled to seek redress from the GCF?
- i) What kinds of monitoring activities would be most useful and effective for the IRM to undertake and how should these be reflected in a revised TOR?
- j) How best can the current TOR be revised to ensure that the IRM helps the GCF improve its safeguard policies and procedures and suggest systemic improvements through proactive investigations and advice?
- k) How best can the IRM ensure that lessons learned by the IRM are incorporated by the Secretariat in its day to day work?
- l) Under what circumstances might the Board reconsider a funding application that has been rejected either by the Board or by the GCF Secretariat or a committee or other mechanism of the GCF? How should the term "rejection of a proposal" be defined? Where and how should these be reflected in the revised TOR?
- m) What specifics with regard to the relationship between the Board and the IRM should be specified in the revised TOR, including reporting lines through the Ethics and Audit Committee of the Board?
- n) What would be an effective role for the Ethics and Audit Committee with regard to the IRM?



III. Submissions

9. Submission on behalf of an organization or group of Organizations, in Microsoft Word format, should be sent via email as one document with the subject line "Revised TOR of IRM – Public submission"

to: irm@gcfund.org

Submissions should clearly indicate:

Full Name of individual or organization
Title/Position
Organization/Affiliation
Contact details including telephone and e-mail address
Organization's Focal Point (name, surname and position).

10. Submissions should indicate whether they are provided on behalf of an individual or a group of individuals or an organization or a group of organizations. In the case where the submissions are provided on behalf of a groups of individuals or organizations, the list of individuals or organizations should be included in the submission.

IV. Disclaimer

11. Submissions provided may be publicly disclosed, made available on GCF's website, and/or incorporated in whole or in part in documents presented at consultations and to the Board. If any portion of the submission is to be kept confidential: (a) the confidential text should be clearly indicated, and (b) redaction prior to disclosure should be expressly requested in the submission.

(See Annex with current TOR of the IRM below)

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Annex

This is the current TOR of the Independent Redress Mechanism (IRM), adopted at the 6th Board meeting of the Green Climate Fund. The Board has requested that this TOR be updated. A revised TOR will be presented to the Board at its 16th meeting in April 2017, following consultations.

Terms of Reference of the Independent Redress Mechanism

I. Role and functions

1. The Governing Instrument mandates the Board to establish “an independent redress mechanism that will report to the Board. The mechanism will receive complaints relating to the operation of the Fund and will evaluate and make recommendations”. The independent redress mechanism (IRM) is not intended to be a court of appeals or a legal mechanism.

2. The IRM is a mechanism within the Fund that will:

(a) Address the reconsideration of funding decisions in accordance with paragraphs 6 to 10 of the Arrangements between the Fund and the Conference of the Parties, and

(b) Address the grievances and complaints by communities and people who have been directly affected by the adverse impacts through the failure of the project or programme funded by the Fund to implement the Fund's operational policies and procedures, including environmental and social safeguards.

II. Modalities for reconsideration of funding decisions

3. A request can be filed by a developing country that has been denied funding for a specific project or programme in that country by the Board, even though resources were available. Such a request will need to include a description of the project or programme that has been denied funding, and will need to substantiate the reasons why the developing country believes that the denial was inconsistent with the policies, programme priorities and eligibility criteria of the Fund, including those implementing guidance provided by the Conference of the Parties.

4. When considering such a request, the IRM will:

(a) Review the request in an open and transparent manner;

(b) Use informal means, in the first instance, for addressing the request to bring about a satisfactory and amicable resolution of the request;

(c) If informal means are not successful, determine whether the Fund was inconsistent with its policies, programme priorities and eligibility criteria when denying funding to a specific project or programme;

(d) Prepare a report for the Board's consideration, including recommendation on possible remedial actions.

5. The Board may consider the request in view of the report and take steps to implement the recommendation of the IRM.

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III. Modalities for redress for affected communities

6. The IRM will treat all stakeholders in a fair and equitable manner. While ensuring transparency and fairness, the IRM will be cost-effective, efficient and complementary to other supervision, audit, quality control and evaluation systems of the Fund. The IRM will follow international best practices.

7. A grievance or complaint can be filed by a group of persons who have been directly affected by adverse impacts through the failure of the project or programme funded by the Fund to implement the Fund's operational policies and procedures, including environmental and social safeguards, or the failure of the Fund or its intermediaries and implementing entities to follow such policies. Other kinds of complaints, such as allegations of corruption, misprocurement, will be handled by other units of the Fund, i.e. the Independent Integrity Unit.

8. When considering such a grievance or complaint, the IRM will follow the steps below:

- (a) Evaluate if a grievance or complaint meets the eligibility criteria set out in paragraph 7;
- (b) If deemed eligible, address a grievance or complaint from those directly affected by the projects/programmes funded by the Fund;
- (c) Use informal means for addressing the grievance or complaint such as problem solving and mediation to bring about a satisfactory and amicable redress of the grievance or complaint;
- (d) Where such informal efforts are not successful, determine if project-affected communities or people encountered impacts because of a failure to follow the Fund's operational policies and procedures, including environmental and social safeguards, and make recommendations to the Board for actions, as appropriate;
- (e) The IRM may also make recommendations to the Board to make changes to operational policies and procedures;
- (f) Monitor whether the decisions taken by the Board following IRM recommendations have been implemented; and
- (g) Prepare and submit periodic progress reports to the Board, as and when required, and an annual report that will also be disseminated to the public.

IV. Governance and management structure

9. The IRM Unit will have the highest professional and technical standards for its staff and operations and will be headed by a part-time expert with experience in running an accountability mechanism and will comprise two other part-time experts who have relevant background and experience relating to such a mechanism. These persons should enjoy impeccable reputation of honesty and integrity and be widely respected and regarded for their competence and expertise. As and when the workload justifies, the part-time head position could be converted into a full-time position. The Head of the IRM Unit will report to the Board.

10. The Board will be responsible for:

- (a) Appointing the Head of the IRM Unit, in an open and transparent manner to be decided by the Board;
- (b) Overseeing the activities of the IRM;
- (c) Considering and approving the annual budget of the IRM;
- (d) Taking decisions and authorizing actions upon recommendation of the IRM, following the investigations; and
- (e) Monitoring the implementation of the decisions taken.

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11. The tenure of the office of the Head of IRM Unit will be for three years, renewable once. To ensure independence of the office, the incumbent may not be removed from office during his/her term, except for malfeasance or mental incapacitation. His/her terms and conditions of appointment will be decided by the Board. The Head of the IRM Unit shall not be eligible for any type of employment by the Fund within one year after the date of the end of his/her appointment.

12. The IRM Unit will keep a roster of experts with a variety of technical skills who will be selected in an impartial and objective manner. These experts will be invited and assigned the task to carry out compliance appraisals in those cases where screening determines that the complaint meets the eligibility criteria and where mediation has failed. The selection of the candidates will be made carefully to eliminate any possible actual or perceived conflict of interest. These experts will be paid all their expenses, and fees or honorarium on the basis of the work performed.

13. The staff of the IRM Unit will be subject to the Code of Conduct of Staff.

V. Guidelines and procedures

14. The detailed guidelines and procedures governing the work of the IRM will be approved by the Board. The procedures to be followed will be iterative, whereby expeditious and low-cost redress of grievances and resolution of complaints can be facilitated. Only in those cases where such informal resolution of problems is not possible, the subsequent phase of investigation and determination will be invoked.

VI. Budget, staffing and reporting

15. To ensure its financial independence, the Head of IRM Unit will propose a budget for meeting the annual expenses and the Board will consider and approve this budget.

16. For administrative purposes only, the Head of IRM Unit will report to the Executive Director, but for all substantive work, he/she will be responsible to the Board.

17. All staff appointments and terminations of service in the IRM Unit will be the sole responsibility of the Head of IRM Unit and not of the Secretariat.

VII. Delineation of roles and responsibilities of the Fund's independent redress mechanism and those of the accountability mechanisms of implementing entities and intermediaries

18. The Fund's IRM should closely cooperate with the relevant departments or units of implementing entities and intermediaries.

19. The relationship between the IRM and the corresponding body of implementing entities or intermediaries will be covered in agreements which will be entered into by the Fund with these implementing entities or intermediaries which will require these to cooperate with the Fund's IRM, where required.

20. The IIU will share best practices and give guidance that can be helpful for the Fund's readiness activities.

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